

Mayor's Office
8-9-95

DATE 8/9/95 TIME 2:00 pm
K. McCoskey
SIGNATURE

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR KITSAP COUNTY

COPY

WILLIAM J. SESKO and NATACHA
SESKO, husband and wife,

Appellants,

vs.

THE CITY OF BREMERTON, a
Municipal Corporation,

Respondent.

NO.

SUMMONS

95 2 02238 5

SUMMONS

A lawsuit has been started against you in the above-entitled court by WILLIAM J. SESKO and NATACHA SESKO, Petitioners. Petitioners' claim is stated in the written Petition, a copy of which is served upon you with this summons.

In order to defend against this lawsuit, you must respond to the petition by stating your defense in writing, and serve a copy upon the undersigned attorney for the Petitioners within 20 days after the service of this Summons, excluding the day of service, or a default judgment may be entered against you without notice. A default judgment is one where Petitioners is entitled to what it asks for because you have not responded. If you serve a notice of appearance on the undersigned attorney, you are entitled to notice before a default judgment may be entered.

If you wish to seek the advice of an attorney in this matter, you should do so promptly so that your written response, if any, may be served on time.

This Summons is issued pursuant to Rule 4 of the Superior Court Civil Rules of the State of Washington.

DATED this 28th day of July 1995

Norman K. Short
Attorney for Petitioners
WSBA No. 22925

David W. Jones
Attorney for Petitioners
WSBA No. 22771

Law Offices of
NORMAN K. SHORT, P.C.
A Professional Corporation
3500 Anderson Hill Road, Suite 102; Post Office Box 3855
Silverdale, Washington 98383
(360) 698-5320; FAX (360) 698-9907

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FOR KITSAP COUNTY

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SESKO, husband and wife,

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THE CITY OF BREMERTON, a
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NO. 95 2 02238 5

PETITION FOR DISMISSAL
OF ADMINISTRATIVE DECISION
AND ORDER

COMES NOW the appellants above named and appeal the decision of the City Council of the
City of Bremerton, Washington, as set forth below:

I. PARTIES

1. William J. Sesko and Natacha Sesko are husband and wife, residents of the City of
Bremerton, and owners of a parcel of land commonly known as 1701 Pennsylvania Avenue,
Bremerton, Washington, which is the subject matter of this appeal.

2. The City of Bremerton, respondent above named, is a municipal corporation formed
under the statutes of the State of Washington.

II. VENUE

3. Venue is appropriate in Kitsap County.

III. FACTS

4. On February 2, 1995, the Director of Community Development of respondent issued
a cease and desist order, a copy of which is attached hereto and incorporated herein by reference as

PETITION FOR DISMISSAL OF ADMINISTRATIVE
DECISION AND ORDER - 1

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1 though fully set forth.

2 5. The alleged grounds for said cease and desist order were that Petitioner, William
3 Sesko, was using the property in a way in which violated the Bremerton Municipal Code, Zoning
4 provisions, to-wit: that Petitioner's use amounted to use as an "illegal 'Junkyard'".

5 6. Petitioner's use of said property did not constitute use as a "Junkyard" but, instead,
6 constituted use as a storage area, the same use of which the property had been put for many years and
7 a use predating any changes in the pertinent zoning laws. The Petitioner's use was therefore a legal
8 non-conforming use.

9 7. Timely appeals of this order and its underlying findings was taken to the Bremerton
10 City Planning Commission and thereafter to the City Council of the City of Bremerton, which
11 affirmed the order on June 28, 1995. Appellants have exhausted their administrative remedies and
12 bring this appeal pursuant to Section 9(G) of Ordinance No 4325.

13 III. GROUNDS

14 The decision of the City Council was arbitrary and capricious, contrary to the evidence
15 presented and in violation of the ordinances in Title 21 of the Bremerton Municipal Code, both as to
16 procedural matters and substance. Further, the applied portions of said Title conflict with other
17 portions of the same Ordinance(s) and, as applied here, beyond the authority granted to the City by
18 state statutes.

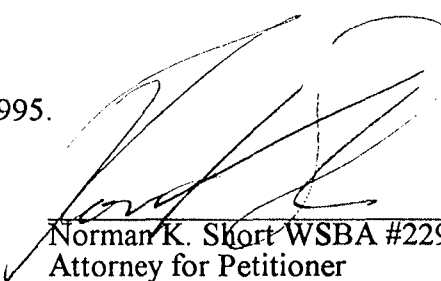
19 IV. PRAYER FOR RELIEF

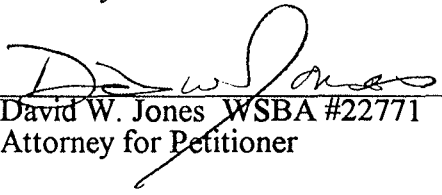
20 WHEREFORE, appellants pray that the action of the City Council of the City of Bremerton
21 above referenced be set aside and the Order to Cease and Desist be vacated, that appellants have
22 judgment for their costs and attorney fees herein to be taxed and for such other and further relief as
23 to the Court seems just and equitable.

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28 PETITION FOR DISMISSAL OF ADMINISTRATIVE
DECISION AND ORDER - 2

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1 DATED this 28th day of July, 1995.

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4 Norman K. Short WSBA #22925
5 Attorney for Petitioner

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7 David W. Jones WSBA #22771
8 Attorney for Petitioner
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27 PETITION FOR DISMISSAL OF ADMINISTRATIVE
28 DECISION AND ORDER - 3

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CEASE AND DESIST ORDER

Pursuant to BMC 21.02.960 (C) "Cease and Desist Order" WILLIAM SESKO , owner of the property located at NORTH END OF PENNSYLVANIA AVENUE AT PORT WASHINGTON NARROWS (Assessor's Tax Parcel #: 3741-000-022-0101) Bremerton, WA, is hereby ordered to immediately discontinue the illegal use defined herein.

The following conditions have been defined as violations of the Bremerton Municipal Code by the Director of Community Development:

BMC 21.02.340 "Interpretation of Tables" [Land Use Table #: 10: "JUNKYARD" land use is not allowed within the "BUSINESS PARK (BP)" zone.

BMC 21.02.960 "Violation of the Zoning Code" [Cease and Desist Order] (C-2) states:

"An order shall be obeyed immediately, notwithstanding the filing of an appeal. An order is final if not appealed to the Planning Commission within fourteen (14) calendar days from the date of posting, or as otherwise stated within the order."

DATE ORDER WAS POSTED:..... FEBRUARY 2, 1995

APPEAL MUST BE FILED OR
COMPLIANCE WITH ORDER ACHIEVED BY:..... FEBRUARY 16, 1995

BMC 21.02.960 "Violation of the Zoning Code" [Cease and Desist Order] (C-3) states:

"Any property subject to a Cease and Desist Order shall be posted with a Vacation Notice [Notice to Vacate] directing vacation of the entire premises within ten (10) working days."

Failure to satisfy the conditions of this order may cause the owner/occupant/lessor to be guilty of a gross misdemeanor as per BMC 21.02.960 "Violation of the Zoning Code" [Cease and Desist Order] (C-3).

ACCOMPLISH THE FOLLOWING ACTION: CEASE & DESIST USE OF THE PROPERTY AS "JUNKYARD".


DONALD L. PRATT
Director of Community Development

2/2/95
Date

DO NOT REMOVE OR DEFACE THIS NOTICE